

TOWN BOARD

The Town Board, Town of Highlands, held a public hearing (continuation) and meeting on Monday, November 28, 2011 at Town Hall, 254 Main St, Highland Falls, NY at 7:00pm.

PRESENT:	Edward Magryta	----	Supervisor
	Holly Gokey	----	Council Member
	William Edsall	----	Council Member (arrived 8pm)
	Laurie R. Tautel	----	Council Member
	Mervin R. Livsey, Jr.	----	Council Member
	Justin Rider	----	Counsel
	Lesley Peterson	----	Deputy Town Clerk

Supervisor Magryta opened the meeting at 7:10pm.

Council Member Livsey made a motion seconded by Council Member Tautel to re-open the public hearing on Water District #2 Benefit District Points Plan.

MOTION CARRIED: 4-ayes (Magryta, Gokey, Livsey, Tautel)
0-nays
1-absent (Edsall)

Mr. Rider said that at the first part of this public hearing, there were many good comments from the public. Mr. Rider stated that these comments were reviewed by the Board, Building Department, Mr. Squicciarini, the engineer and himself and many changes were made. Mr. Rider said there were no changes made to the formula, just to the individual properties.

Supervisor Magryta said these were tentative numbers, but they are very close to the final numbers. The Supervisor said the anticipated budget for Water District 2 in 2012 is \$52,465, there are 3624 points in the district and the cost of each point is \$14.48.

PUBLIC COMMENT

Dave Tonneson reported that Mr. Squicciarini has disconnected his rental property from the water system. This property does not abut a Town road and he would like his points reduced to 4.

Supervisor Magryta said the Board will take the request under consideration and have an answer at the end of the night.

Greg Maher said the Board discussed using the sewer system to help form the water system and asked how the formula was formed. Mr. Maher is confused why the points aren't multiplied, by unit, like the sewer district.

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Mr. Rider said that was one of the options, but the sewer district is based on most properties having access to sewer. The current status of the Water District is that some properties have access to water and some do not. Regardless of the type of property, once there is access, the multiplier will kick in.

Supervisor Magryta said that the Board had one month to do a six month project and the object is to get a fair system in place.

Jim Conley suggested that the amount that needs to be paid back be divided amongst the properties in the district.

Mr. Rider said Mr. Conley made an interesting point, but the Town was looking at the project by parcel and not throwing it all together.

Matt Lawney is also concerned with the point system and he wonders where the benefit is for him. Mr. Lawney stated that if it is not proven that the benefit is equal to the amount he will pay, he will not be using it.

Council Member Livsey doesn't believe that everyone will benefit.

(Council Member Edsall arrives – 8:00pm)

Mr. Lawney said the Board is not doing a good job presenting the point system.

Supervisor Magryta said the Board looked at all the scenarios and this was the best one, even though it is not 100% full proof.

Mr. Rider said this point system is an annual roll that can be reviewed yearly by the Board.

Bernie Cassidy asked if there was going to be any money left over from the settlement to help finance the project.

Supervisor Magryta said the settlement is going towards helping the project.

Charles Hannigan is disappointed that there is going to be a vote tonight.

Supervisor Magryta said the Board needs to make decisions and move forward even with the concerns.

Richard Sullivan would like confirmation that there is enough water and if not then he doesn't want to pay point.

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Mr. Rider said there is not enough water for the 377 parcels in the district, but there is enough water for the project.

Supervisor Magryta said it will be up to future Boards to determine how water gets to the residents.

Council Member Livsey made a motion seconded by Council Member Gokey to close the public hearing. Public hearing closed at 8:45pm.

MOTION CARRIED: 5-ayes (Magryta, Edsall, Gokey, Tautel, Livsey)
0-nays

Council Member Livsey said there is a lot to still discuss and he doesn't think the Board should vote tonight.

Council Member Edsall said he doesn't believe there is a time constraint, but there is a constraint to get it right. Mr. Edsall also doesn't think he should vote because he arrived late and didn't hear what was said.

The Board filled Council Member Edsall in on what he missed.

Council Member Tautel agrees there are some issues with the system.

Supervisor Magryta said the Board has made a strong effort in this and said that not everyone will agree on everything. The Supervisor explained that this is a living document that can be changed if needed.

Council Member Tautel made a motion seconded by Council Member Livsey to accept the 12, 4, 6 modification.

MOTION CARRIED: 5-ayes (Magryta, Edsall, Gokey, Tautel, Livsey)
0-nays

Mr. Rider said that would make it \$14.83 per point with a total of 3538 points.

Council Member Edsall made a motion seconded by Council Member Tautel to approve the resolution of Final Adoption of Special District Assessments, Rolls and Benefit Formulas for the Year 2012.

RESOLUTION ADOPTED: 5-ayes (Magryta, Gokey, Edsall, Tautel)
1-nays (Livsey)

****RESOLUTION ATTACHED****

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Council Member Edsall made a motion seconded by Council Member Tautel to adopt the resolution Authorizing the Payback of the Indebtedness owed by Town of Highlands Water District #2 to the Town of Highlands Commencing in the Year 2012.

**RESOLUTION ADOPTED: 5-ayes (Magryta, Gokey, Edsall, Tautel, Livsey)
0-nays**

******RESOLUTION ATTACHED******

Supervisor Magryta said that now that the Point System and Indebtedness has been taken care of, the Board needs to set a public hearing for the water system project.

Council Member Tautel made a motion seconded by Council Member Livsey adopting an Order of Town Board Calling Public Hearing in the Matter of the Town of Highlands Water District #2 Distribution System Extension #1 and Increase of Maximum Expenditure Pursuant to Article 12-A of the Town Law. The Public Hearing will be held on December 12, 2011 at the Town Hall at 7:00pm.

**RESOLUTION ADOPTED: 5-ayes (Magryta, Gokey, Edsall, Tautel, Livsey)
0-nays**

******RESOLUTION ATTACHED******

TOWN BOARD SALARIES – PRESENTATION BY MEDIATOR

Jeffrey Chanin, the Arbitrator, explained that Municipal Law says that after the motion is made to agree to the salaries in the proposed budget, the only way to change those salaries is by mandatory referendum. The referendum has to be called within 2 weeks and a special election is held so the public can vote for or against the raises. If this does not happen, the salaries go into effect.

Supervisor Magryta informed the Board that they have the right to decline the salary and can do so by providing the Comptroller with a letter before the next payroll.

TOWN RESERVE FUND ESTABLISHMENT/PROPOSAL – TAX STABILIZATION FUND

Council Member Livsey made a motion seconded by Council Member Edsall to adopt the resolution to Establish a Contingency and Tax Stabilization Reserve Fund in Accordance with General Municipal Law Section 6-E.

**RESOLUTION ADOPTED: 5-ayes (Magryta, Gokey, Edsall, Tautel, Livsey)
0-nays**

******RESOLUTION ATTACHED******

PUBLIC COMMENT

Greg Maher asked what is next for the water project now that the points have been established.

Supervisor Magryta said that after the Public Hearing, the Board will decide on the matter.

Mr. Rider said that that is also subject to permissive referendum only for the residents of the water district. Mr. Rider stated that after the permissive referendum is expired, the Board can seek bid documents and financing.

Supervisor Magryta said that if the referendum was successful there would be a delay.

Mr. Rider explained that it could be subject to a special election or the general election.

Seamus Coughlin questioned how the pipes were going to be laid out.

Supervisor Magryta said an easement would need to be discussed for his property.

Annie Scott said she appreciates the time the Board has spent on the water issue, but she believes the Board has failed the residents again by not providing all the information.

Supervisor Magryta said that all the information has been available in the Town Clerk's office.

EXECUTIVE SESSION

Council Member Livsey made a motion seconded by Council Member Edsall to go into executive session to discuss legal matters related to the Town. Board went into executive session at 9:55pm.

**MOTION CARRIED: 5-ayes (Magryta, Edsall, Gokey, Tautel, Livsey)
0-nays**

RESOLUTION
OF
NOVEMBER 28, 2011

A RESOLUTION OF FINAL ADOPTION
OF SPECIAL DISTRICT
ASSESSMENTS, ROLLS AND BENEFIT
FORMULAS FOR THE YEAR 2012

Council Member **Edsall** moved the following resolution which was seconded by Council Member **Tautel**.

WHEREAS, the Annual Budget and Special Assessment Rolls for the Town's special districts and special improvement areas, namely Fort Montgomery Light District; Crystal Lake Sewer District; Crystal Lake Water District; Town of Highlands Water District #1; Town of Highlands Water District #2; and Town of Highlands Sewer Improvement Area for the fiscal year beginning January 1, 2012 were duly prepared and filed with the Town Clerk as required by law, and

WHEREAS, a public hearing on the said Budgets and Assessment Rolls as required by law, was held by this Town Board and the Board having met at the appointed time and place as specified in the Notice of Hearing duly published by the Town Clerk and all persons interested and desiring to be heard thereon having been heard;

NOW, THEREFORE, BE IT

RESOLVED, that this Town Board of the Town of Highlands does hereby adopt the budget as compiled and presented at the said hearing, together with Assessment Rolls accompanying the same as the Annual Budget and Assessment Rolls for the Town's special districts and special improvement areas, namely Fort Montgomery Light District; Crystal Lake Sewer District; Crystal Lake Water District; Town of Highlands Water District #1; Town of Highlands Water District #2; and Town of Highlands Sewer Improvement Area for the fiscal

year beginning January 1, 2012 and that such Budget and the Assessment Roll accompanying the same be entered in full in the minutes of the proceedings of this Town Board; and be it

FURTHER RESOLVED, that the Benefit Formulas finally approved shall spread a portion of the cost of maintaining and operating the Town Districts and the payment of the debt service due for the fiscal year beginning January 1, 2012 over the properties within the Districts in proportion to the benefit derived; and be it

FURTHER RESOLVED, that the Benefit Formula for Town of Highlands Water District No. 2 is attached hereto as Exhibit A; and be it

FURTHER RESOLVED, that the Benefit Formula for Town of Highlands Sewer Improvement Area is attached hereto as Exhibit B; and be it

FURTHER RESOLVED, that the Town Clerk of the Town of Highlands prepare and certify in duplicate copies of the said Budget and Assessment Rolls as so adopted for presentation as required by law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Mervin R. Livsey, Jr., Councilman voting **Nay**

Laurie R. Tautel, Councilwoman voting **Aye**

Holly Gokey, Councilwoman voting **Aye**

William W. Edsall, Councilman voting **Aye**

Edward Magryta, Supervisor voting **Aye**

RESOLUTION

OF

NOVEMBER 28, 2011

A RESOLUTION AUTHORIZING
THE PAYBACK OF THE INDEBTEDNESS
OWED BY TOWN OF HIGHLANDS
WATER DISTRICT #2
TO THE TOWN OF HIGHLANDS
COMMENCING IN THE YEAR 2012

Councilmember **Edsall** moved the following resolution which was seconded by Council Member **Tautel**.

WHEREAS, it has come to the attention of the Town Board, that Water District #2 has not been administered properly in the past, and that as a result thereof, Water District #2 is indebted to the Town of Highlands as a result of payments made out of general Town funds as opposed to Water District #2 funds; and

WHEREAS, the failure to administer the district properly, dates from the formation of the special benefit district in 2000;

WHEREAS, the Town Board, Town Comptroller, Attorney to the Town Board and Town Receiver of Taxes have thoroughly investigated the administrative failings and have reviewed the economic impact thereof; and

WHEREAS, having analyzed the accounting procedures and records of Water District #2 and the Town, the Town Board to the best of its knowledge believes that total indebtedness owing from Water District #2 to the Town of Highlands is in the amount of \$374,734.63 (the “Indebtedness”);

WHEREAS, the Town Board of the Town of Highlands has met and considered the most reasonable manner in which to have Water District #2 payback the Indebtedness, such that an

unjust impact does not unduly harm the property owners of Water District #2; and

WHEREAS, the Town Board of the Town of Highlands has met and considered which funds of the Town were used to pay the obligations of Water District #2 and even after its best efforts, the Town Board will not be able to precisely define which Town funds paid which obligations of Water District #2; and

WHEREAS, the Town Board of the Town of Highlands has met and considered how to properly allocate the payback of the Indebtedness to the various Town funds and believes that it is in the best interest of the Town and all Town Taxpayers that when the Indebtedness is repaid, the moneys shall be distributed in the funds in just proportion to the percentage assessed value of the particular fund;

WHEREAS, the Town Board of the Town of Highlands adopted a resolution on the 28th day of October, 2011 ordering a public hearing to be held on the 17th day of November, 2011, at 7:30 o'clock p.m., prevailing time, to hear all interested parties on the payback of the Indebtedness; and

WHEREAS, a notice of Public Hearing was duly advertised on the 4th day of November, 2011 in The News of the Highlands and posted on the Town Clerk's sign board on the 1st day of November, 2011; and

WHEREAS, the Public Hearing was duly held on the 17th day of November, 2011 at 7:30 o'clock p.m., at Town Hall, 254 Main Street, Highland Falls, New York and all parties in attendance were permitted to speak on behalf or in opposition of the payback of the Indebtedness or any particular matter related thereto; and

WHEREAS, the payback of the Indebtedness is a local legislative decision in connection with continuing agency administration and management, and does not include new programs or

major reordering of priorities that may affect the environment, and accordingly is a Type II Action under the State Environmental Quality Review Act; and

WHEREAS, the Town Board of the Town of Highlands, after due deliberation finds it in the best interest of the Town to adopt a plan to payback the Indebtedness and desires to institute a multi-year plan for the payback of the Indebtedness.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. Town of Highlands Water District No. 2 will payback the Indebtedness over a period of twenty years at an interest rate of four (4%) percent and the Town will apply the 2012 Benefit Formula and Point System to allocate the Indebtedness to the respective properties in Water District #2 until such debt is repaid in full or otherwise excused in accordance with New York Law; and
2. The Town Board shall authorize Town officers to commence billing the property owners in Water District #2 beginning in 2012, with such fees to be collected twice yearly; and
3. That the Supervisor and officers of the Town are hereby authorized and empowered to make, execute and deliver, or cause to be made, executed and delivered, in the name of and on behalf of the Town, all such certificates, documents and papers as may be necessary to effectuate and carry out the contents of the foregoing resolution; and
4. That the aforesaid resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Mervin R. Livsey, Jr., Councilman voting **Aye**

Laurie R. Tautel, Councilwoman voting **Aye**

Holly Gokey, Councilwoman voting **Aye**

William W. Edsall, Councilman voting **Aye**

Edward Magryta, Supervisor voting **Aye**

ORDER OF TOWN BOARD
CALLING PUBLIC HEARING
IN THE MATTER OF THE TOWN OF HIGHLANDS
WATER DISTRICT #2 DISTRIBUTION SYSTEM EXTENSION #1
AND INCREASE OF MAXIMUM EXPENDITURE
PURSUANT TO ARTICLE 12-A OF THE TOWN LAW
NOVEMBER 28, 2011

Council Member **Tautel** moved for the adoption of the following Order which was seconded by Council Member **Livsey**.

WHEREAS, Town of Highlands Water District #2 was established in August, 2000, and was subject to a maximum expenditure of \$3,700,000 by order of the Department of Audit and Control of the New York State Comptroller's Office; and

WHEREAS, the initial work done in Water District #2 did not fully build out the system and the proposed infrastructure; and

WHEREAS, a map, plan and report dated June 13, 2011, as amended, has been duly prepared according to law by J.R. Folchetti & Associates, L.L.C., in such manner and in such detail as has heretofore been determined by the Town Board of the Town of Highlands relating to the new facilities to be placed within the existing district; and

WHEREAS, said map, plan and report showing the facilities involved together with the boundaries of the District has been filed in the office of the Town Clerk of said Town, where the same is available during regular office hours for examination by any persons interested in the subject matter thereof; and

WHEREAS, the boundaries of Water District No. 2 were established with the "Final Order Establishing District" dated August 10, 2000; and

WHEREAS, it has heretofore been determined in accordance with the provisions of Town Law Section 209-e that all expenses of Water District No. 2, shall be a charge against the entire area of the district; and

WHEREAS, \$3,096,609.88 is the maximum amount proposed to be expended for the construction of the distribution system extension improvements as stated in the map, plan and report with the Town of Highlands construction share being approximately \$1,401,600 to be financed by the issuance of bonds, notes, certificates or other evidences of indebtedness of the Town; with the balance of the project cost coming from a private contributor; and

WHEREAS, the map, plan and report state the cost of the distribution system extension improvements to a typical property owner will be an estimated \$961.70 if financed over 20 years and \$929.90 if financed over 30 years, which figures include approximately \$500 in water usage for connected parcels, using 2011 rates; and

WHEREAS, Water District #2 is a Benefit District, with current annual administrative and debt service expenses of approximately \$79,863.00; and

WHEREAS, the total benefit points in the District would increase from the current count of 3,538 to a new count of approximately 3,742 upon the conclusion of the proposed construction; and

WHEREAS, the anticipated financing options would establish costs as follows:

Table 8.1.6-1

FINANCING OPTION 1 EFC SUBSIDIZED 20-YEAR LOAN			
	ASSESSED BENEFIT		
	4 POINTS	7 POINTS	10 POINTS
CAPITAL COST/TAX PARCEL/YEAR	\$ 99.32	\$ 173.81	\$ 248.30
CAPITAL COST/TAX PARCEL AND EXISTING DEBT	\$ 184.68	\$ 323.19	\$ 461.70
CAPITAL COST AND EXISTING DEBT AND WATER CONSUMPTION (EST @ \$500/yr)			\$ 961.70

Table 8.1.6-2

FINANCING OPTION 2 EFC 20-YEAR 0% HARDSHIP LOAN			
	ASSESSED BENEFIT		
	4 POINTS	7 POINTS	10 POINTS
CAPITAL COST/TAX PARCEL/YEAR	\$ 74.92	\$ 131.11	\$ 187.30
CAPITAL COST/TAX PARCEL AND EXISTING DEBT	\$ 160.28	\$ 280.49	\$ 400.70
CAPITAL COST AND EXISTING DEBT AND WATER CONSUMPTION (EST @ \$500/yr)			\$ 900.70

Table 8.1.6-3

FINANCING OPTION 3 EFC 30-YEAR MARKET RATE LOAN			
	ASSESSED BENEFIT		
	4 POINTS	7 POINTS	10 POINTS
CAPITAL COST/TAX PARCEL/YEAR	\$ 86.60	\$ 151.55	\$ 216.50
CAPITAL COST/TAX PARCEL AND EXISTING DEBT	\$ 171.96	\$ 300.93	\$ 429.90
CAPITAL COST AND EXISTING DEBT AND WATER CONSUMPTION (EST @ \$500/yr)			\$ 929.90

WHEREAS, it is now desired to call a public hearing upon the question of the distribution system improvements and the increase to the maximum amount to be expended on Water District No. 2 pursuant to Article 12-A of the Town Law.

NOW, THEREFORE, BE IT ORDERED, by the Town Board of the Town of Highlands, Orange County, New York, as follows:

Section 1. The Town Board of the Town of Highlands shall hold a public hearing at the Town Hall at 254 Main Street, Highland Falls, New York on the 12th day of December, 2011 at 7:00 p.m. in the matter of the proposed Water District #2 distribution system extension and increase of maximum amount to be expended as described in the preambles hereof, and to consider the map, plan and report filed in relation thereto and the improvements therefore and to hear all persons interested in the subject matter thereof concerning the same, and for such other action on the part of said Town Board as may be required by law or shall be proper in the premises.

Section 2. The following determination was heretofore made in relation to Water District No. 2: all the expenses of Water District No. 2, including all improvements heretofore or hereafter established, shall be a charge against the entire area of the district.

Section 3. The Town Clerk is hereby authorized and directed to cause a copy of this Order to be published once in The News of the Highlands, the official newspaper of said Town, the first publication thereof to be not less than ten (10) nor more than twenty (20) days before the day set herein for the hearing as aforesaid, and the Town Clerk shall also cause a copy of this Order to be posted on the signboard of the Town maintained pursuant to subdivision 6 of Section 30 of the Town Law not less than ten (10) nor more than twenty (20) days before the day set for the public hearing as aforesaid.

Section 4. This Order shall be entered in the minutes of the meeting and shall take effect immediately.

The question of the adoption of the foregoing Order was duly put to a vote on roll call which resulted as follows:

Mervin R. Livsey, Jr., Councilman voting **Aye**

Laurie R. Tautel, Councilwoman voting **Aye**

Holly Gokey, Councilwoman voting **Aye**

William W. Edsall, Councilman voting **Aye**

Edward Magryta, Supervisor voting **Aye**

RESOLUTION

OF

NOVEMBER 28, 2011

A RESOLUTION TO ESTABLISH A CONTINGENCY AND
TAX STABILIZATION RESERVE FUND
IN ACCORDANCE WITH GENERAL MUNICIPAL LAW
SECTION 6-E

Council Member **Livsey** moved the following resolution which was seconded by Council Member **Edsall**.

WHEREAS, the Town Board of the Town of Highlands pursuant to Section 6-e of the General Municipal Law of New York State desires to establish a contingency and tax stabilization reserve fund to be entitled “The Town of Highlands Contingency and Tax Stabilization Reserve;” and

WHEREAS, the Town Board of the Town of Highlands, after due deliberation finds it in the best interest of the Town to establish such a reserve.

NOW, THEREFORE, BE IT RESOLVED, that the Town of Highlands shall establish a reserve fund in accordance with General Municipal Law Section 6-e, entitled “The Town of Highlands Contingency and Tax Stabilization Reserve;” and

BE IT FURTHER RESOLVED, that the foregoing resolution is adopted subject to permissive referendum.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

Mervin R. Livsey, Jr., Councilman voting **Aye**

Laurie R. Tautel, Councilwoman voting **Aye**

Holly Gokey, Councilwoman voting **Aye**

William W. Edsall, Councilman voting **Aye**

Edward Magryta, Supervisor voting **Aye**